

PLANNING COMMISSION MINUTES OF AUGUST 28, 2006

2006-0565 - Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for a Redwood tree in the front yard of a property located at **1633 Edmonton Avenue** – RK

Ryan Kuchenig, Associate Planner, presented the staff report. He said that staff finds the tree in good health, that it has a significant remaining life span that merits preservation and that removal of the tree would have a detrimental affect on the overall streetscape. He said staff cannot make the required findings for the tree removal permit and recommends the denial of the permit be upheld. He added that **Leonard Dunn**, the City's Urban Landscape Supervisor, is available to answer questions.

Comm. Babcock said that the report indicates there is new information included that the applicant feels supports removal of the tree. She said the only new information she found was that lateral roots from the tree were in the neighbor's sewer. Staff confirmed that this is the only new information and is the basis for this appeal. She said she recalled from the prior review of this tree removal request that the Planning Commission had recommended exploration to determine if tree roots were in the atrium of the home. Mr. Kuchenig said staff did not receive any additional information regarding tree roots in the atrium.

Comm. Ghaffary asked staff about the recommended trenchless, or pipe bursting method of replacing existing sewer lines and whether this has been tried in neighboring cities. Mr. Dunn said that the City has not tried this method for public sewer lines and does not have information on private lines. He said it is a relatively new technology involving pulling a continuous pipe through the existing sewer line from the public sewer line area up to the home and the method has been very successful.

Comm. Sulser asked staff to comment on how the radiant heating system in the floor of Eichler homes works. **Trudi Ryan**, Planning Officer, said most of the Eichler homes in Sunnyvale were built with copper tubing that is wound within the slab of the house a short distance below the top of the slab, and hot water is piped through the tubing that heats the floor and the rest of the house. She said the tubing is mostly continuous and interconnected unless shut off at a valve.

Chair Klein opened the public hearing.

Margaret Klugherz, appellant, said that the tree is less than four feet from the property line with their adjoining neighbor. She said the neighbor intended to be present at tonight's meeting to support the request for the removal of the tree, but was unable to attend. Ms. Klugherz said the neighbor has complained about the

roots in the sewer and objects to having to pay to clean out or replace sewer lines because of someone else's tree. Ms. Klugherz said Mariya Hodge, Assistant Planner, came for a site visit and the neighbor was very vocal with Ms. Hodge about her objections and the impact of the tree. Ms. Klugherz referred to Attachment A and said that staff feels that alternatives exist to replace the sewer lines and save the tree. Ms. Klugherz said that staff finds the removal of the tree to be detrimental to the neighborhood, but she said most of her neighbors feel the tree is too big and think the removal would improve the neighborhood. She said if the appeal were approved, she would be happy to comply with the Conditions of Approval and replace the tree.

Comm. Rowe commented to Ms. Klugherz that on her site visit she noticed there is a clean-out close to the tree. Ms. Klugherz said yes that the tree has pushed the entire front yard up quite a bit and the builder had put in a circular cement structure to protect the sewer and allow for easier clean out. The clean-out is just a few feet from the appellant's house.

Arthur Schwartz, a resident of Sunnyvale, said he read through the report and commented that if citizens are to use this new method of replacing the sewer lines that has not been tested in Sunnyvale that he does not feel they should have to pay for the replacement. He said the City should either pay for the work or guarantee the work because there is no guarantee the method proposed is going to work. He said the applicant has spent a lot of money over the years cleaning out the sewer line. He said a redwood tree needs space for its roots and as this tree gets larger that the house will affect the tree and the tree could fall. He said he agrees that this tree is out of proportion for the neighborhood and thinks the applicant should be allowed to cut the tree down and solve both the applicant's and the neighbor's problems with costs.

Ms. Klugherz commented that this past winter in Palo Alto a piece of a redwood tree came down in a storm and damaged a house and said if this tree fell it could take out their house, their neighbor's house, or other neighboring property.

Comm. Babcock asked Ms. Klugherz if she has been able to dig in the atrium area of their home and see if there are tree roots in the atrium. Ms. Klugherz said that they had an excavation done along the foundation of the home, but no large roots were found. She said Steve Sukke came to inspect the excavation and recommended they reapply based on the tree roots getting into their sewer lines and the neighbor's sewer lines. Comm. Babcock asked Ms. Klugherz if they have checked into having the tree pruned. Ms. Klugherz said no.

Chair Klein closed the public hearing.

Comm. Rowe referred to page six of the report and asked staff for clarification on the tree preservation ordinance and whether staff feels that "infrastructure (such as underground utilities) can be considered..." as something that a tree

could potentially damage. Ms. Ryan said infrastructure is not specifically mentioned, but there is a catchall finding that if any other pertinent information to the application justifies the removal that that can be used as part of the finding. Ms. Ryan confirmed that the tree roots intrusion into the sewer may be significant and could be considered relevant for a tree removal application.

Vice Chair Sulser referred to the cost-share analysis on page eight and asked what the difference in cost of trenching versus non-trenching would be for the neighbor. Mr. Kuchenig said the analysis was for the subject property and was done in 2005, but that the costs would probably be similar for the neighbor. Ms. Ryan added that these would be average costs and it would depend on the neighbor's sewer line being similar to the applicant's sewer line. She commented that the sewer lines might not have to be replaced and that even if the sewer lines are replaced that the roots could continue to thrive.

Comm. Hungerford asked Mr. Dunn if the trenchless sewer line replacement were accomplished, how the tree might be impacted. Mr. Dunn said that has not been measured, but the sewer line is only about four inches in diameter and there is soil all the way around the tree, so the nutrients that the tree may be receiving from the one sewer line should not cause the tree to decline.

Comm. Rowe asked staff if the Planning Commission approved the removal and required the 15-gallon size replacement tree, could they choose any tree type, or could the Commission require it be a tree that would add more to the air quality. Mr. Kuchenig said that there is no specific requirement that a replacement tree is a particular species, but the Commission could include a particular species in the motion. Ms. Ryan added that typically, staff does not say where a replacement tree should be placed, but the Commission could indicate in the motion where it should be planted. Ms. Ryan said if the Commission's concern is the air quality then a larger tree might be recommended. Comm. Rowe commented that her concern would be about air quality.

Comm. Babcock moved for Alternative 1 to deny the appeal and uphold the denial of the Tree Removal Permit. Vice Chair Sulser seconded.

Comm. Babcock said that she is unable to make the findings and that there are still other alternatives that she feels should be checked out including the pruning of tree.

Comm. Rowe said she would not be supporting the motion as she feels this tree is out of proportion to the size of house. She said that she has a concern about citizens having to pay for the damage of trees and with the expenses being mandated by the City. She said that when homeowners water their lawns that a redwood tree develops shallow roots. She said she is also concerned about the Eichler home floor system and the cost of repairing the foundation and pipe system underneath the cement pad.

Chair Klein said he would be supporting the motion, as he could not make the findings. He said when the issue previously came to the Planning Commission that part of the concerns were whether there was possible damage to the foundation of the home and that seems to be ruled out. He said the small roots do not currently directly affect the foundation of the house. He said he commiserates with the applicant as he also has trees that affect the sewer at his home, but the Planning Commission has to base their decision on the findings and he could not make the findings to approve the tree removal.

ACTION: Comm. Babcock made a motion on 2006-0565 to deny the appeal and uphold the denial of the Tree Removal Permit. Vice Chair Sulser seconded. Motion carried 5-1, Comm. Rowe dissenting and Comm. Simons absent.

APPEAL OPTIONS: This decision is final and is not appealable.